

## **SUBCHAPTER L : LAKE RAY HUBBARD**

### **§284.221. Definitions.**

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

**Commission** - The Texas Water Commission.

**Executive director** - The executive director of the Texas Water Commission.

**Holding tank** - A vented, watertight tank designed for temporary holding of sewage and so constructed as to prevent the removal of the sewage except by pumping therefrom, for delivery to an organized disposal system.

**NTMWD** - The North Texas Municipal Water District, the designated agent of the commission for performance of all licensing functions.

**Lake Ray Hubbard** - The lake created by a dam on the Trinity River in Dallas and Kaufman Counties and located in Collin, Dallas, Rockwall, and Kaufman Counties.

**Local government** - An incorporated city, a county, a river authority, or a water district or authority acting under the Texas Constitution, Article III, §52, or Article XVI, §59.

**msl** - The abbreviation for mean sea level.

**Organized disposal system** - Any public or private system for the collection, treatment, and disposal of sewage operated in accordance with the terms and conditions of a permit from the Texas Water Commission.

**Private sewage facility** - Septic tanks, pit privies, cesspools, holding tanks, injection wells used to dispose of sewage chemical toilets, treatment tanks, and all other facilities, systems, and methods used for disposal of sewage other than by an organized disposal system.

**Septic tank system** - A system for disposing of sewage through soil absorption and consisting of the following components: the house sewer; the septic tank; the soil absorption field.

**Sewage** - Waste that is primarily organic and biodegradable or decomposable and that generally originates as human, animal, or plant waste from certain activities, including using toilet facilities, washing, bathing, and preparing food.

**Soil absorption field** - That part of a septic tank system consisting of drainage tiles and surrounding permeable soil used for the subsurface disposal of septic tank effluent.

**Standards** - The standards set forth in the pamphlet entitled "Construction Standards for On-Site Sewerage Facilities" and all future amendments thereto, which were adopted by the Texas Board of Health, pursuant to Texas Civil Statutes, Article 4477-1, as Texas Department of Health rules, 25 TAC §§301.11-301.17 (relating to Construction Standards for On-Site Sewerage Facilities), effective January 1, 1988.

**Subdivision** - A subdivision which has been plated and recorded with the county or counties in which the land lies, or which is required by statute to be so plated and recorded; or any four or more contiguous lots or tracts, each of which is less than one acre in size.

**§284.222. Restricted Zone.**

The commission designates the Lake Ray Hubbard restricted zone as the area surrounding the lake (including the lake bed) which is either within the 442 foot msl contour line or within 200 feet of the 435.5 msl line, whichever is the greater distance from the lake, measured horizontally away from the lake.

**§284.223. Water Quality Zone.**

The commission designates the Lake Ray Hubbard water quality zone as the area in the Lake Ray Hubbard watershed lying between the outer boundary of the restricted zone, designated in §284.222 of this title (relating to Restricted Zone), and a parallel line located at a distance of 2,000 feet from the outer boundary of the restricted zone, measured horizontally away from the lake.

**§284.224. Sewerage Facilities.**

(a) Restricted zone. No sewerage facilities may be constructed or placed within the restricted zone except:

(1) facilities of organized disposal systems authorized by valid permits issued by the commission;

(2) public restroom facilities approved by NTMWD;

(3) pump-out facilities for the removal and disposal of wastes from boats and other watercraft in accordance with Chapter 321, Subchapter A, of this title (relating to Boat Sewage Disposal); and

(4) holding tanks or other non-soil absorption systems approved by the Texas Department of Health.

(b) Water quality zone. No sewerage facilities of any kind may be located within the water quality zone except:

(1) organized disposal systems authorized by valid permits issued by the Texas Water Commission; or

(2) septic tank or other approved systems licensed in accordance with this subchapter.

**§284.225. Discharge of Sewage.**

(a) Restricted zone. No sewage discharges of any kind may be made in the restricted zone except as follows.

(1) Organized disposal system. Discharges of sewage may be made into organized disposal systems operating under valid permits issued by the Texas Water Commission.

(2) Removal from boats and watercraft. Sewage may be removed from boats and other watercraft in accordance with §§321.1-321.18 of this title (relating to Boat Sewage Disposal).

(3) Other discharges. Discharges from facilities provided for public restrooms or discharges made into holding tanks or into other non-soil absorption systems approved by the Texas Department of Health shall be in a manner approved and licensed by the NTMWD.

(b) Water quality zone. No sewage discharge of any kind may be made in the water quality zone except as follows.

(1) Organized disposal systems. Discharges of sewage may be made into organized disposal systems operating under valid permits issued by the Texas Water Commission.

(2) Licensed septic tank systems. Discharges of sewage may be made into septic tank systems licensed in accordance with the provisions of this subchapter.

(3) Other facilities. Sewage may be discharged to other facilities if a license therefore has been issued in accordance with the provisions of this subchapter.

#### **§284.226. Licensing Functions.**

The NTMWD is designated by the commission to perform all licensing functions of this subchapter.

(1) NTMWD shall have the power to:

(A) make reasonable inspections of all private sewage facilities to be located within the area covered by this subchapter; and

(B) collect all fees set by the authority necessary to recover all the costs incurred in meeting the requirements of this subchapter.

(2) NTMWD shall have the responsibility to:

(A) make semiannual reports to the executive director on all actions taken concerning this subchapter; and

(B) perform all the duties necessary to meet the requirements of this subchapter.

**§284.227. Licenses for Private Sewage Facilities in Restricted and Water Quality Zones.**

(a) Restricted zone. While §284.224 of this title (relating to Sewerage Facilities) states no private sewage facilities shall be constructed or placed in the restricted zone, the NTMWD may issue a license for a private sewage facility if it finds that the existence of any system installed before September 17, 1971, will not cause pollution of the lake, or injury to public health, subject to the cancellation of such licenses whenever the collection system of an approved organized disposal system is located within 300 feet or less from the private sewage facility and in the opinion of the NTMWD it is feasible to connect.

(b) Water quality zone. No part of a private sewage facility may be installed or used in the water quality zone unless a license therefore has been issued in accordance with this subchapter. No license shall be issued for any private sewage facility when any part of the facility is located within 300 feet or less from an organized disposal system and in the opinion of the NTMWD it is feasible to connect.

(1) A subdivision lot which lies wholly or partially within the zone and which has a minimum lot size of less than one-half acre must be connected to an organized disposal system operating under a valid permit issued by the commission and may not be served by a private sewage facility.

(2) The lot or tract which the private sewage facilities will serve must meet the requirements of the latest edition of the "Standards," unless the lot or tract was properly platted and recorded prior to September 17, 1971.

(3) All private sewage facilities in the water quality zone must meet the standards as set out by the Texas Department of Health.

(4) Where multiple family units are involved, NTMWD shall determine the increased lot size necessary for a septic tank system to function properly.

(5) Where steep and hilly lots or other special circumstances are involved, NTMWD may increase the minimum lot size or may require special precautions be taken in order that the septic tank system on such sites is capable of functioning properly.

(c) Conditional license. NTMWD may issue a conditional license for a private sewage facility in either zone under circumstances otherwise prohibited herein if NTMWD finds that the installation of such a private sewage facility will not cause pollution of the adjacent lake, or injury to public health.

(d) Transfer of licenses. Any license issued under this subchapter can be reissued to a succeeding owner of the property only after:

- (1) an application is made to NTMWD;

(2) NTMWD performs a reinspection of the system; and

(3) NTMWD declares the system satisfactory for any anticipated changes of system loading created by the change of ownership of the property.

**§284.228. License Procedures for Construction of New Private Sewage Facilities.**

The following procedures shall govern the issuance of licenses for new private sewage facilities within the restricted or water quality zones.

(1) Application forms may be obtained from the offices of the county judge of Collin, Kaufman, Rockwall, and Dallas Counties, and from the offices of the NTMWD. The form of the application shall be specified by the NTMWD. In order to initiate an application for a license, the completed application must be filed with the office of the NTMWD. If the property involved is not part of a recorded subdivision, the application shall be accompanied by a map or aerial photograph of sufficient detail to locate clearly the land on which the system will be constructed, with the location of the private sewage facility shown thereon.

(2) Within 60 days after receipt of an application, NTMWD will cause to be performed such inspections and tests as may be deemed necessary, which may include percolation tests as provided in the latest edition of the "Standards," site inspection and other such tests and inspections as the NTMWD may consider appropriate. If NTMWD approves the application, it shall so notify the applicant who may then proceed with the construction of the private sewage facility in accordance with the plans submitted with the application. If the application is disapproved as submitted, but NTMWD is of the opinion that a private sewage facility of a different design may be constructed on the property, it shall advise the applicant in writing of the changes necessary to obtain a license.

(3) All private sewage facilities shall be constructed in accordance with the "Standards" and the plans approved by NTMWD. Any deviation from the plans must be approved by NTMWD before construction is completed. The construction of the facility shall be subject to inspection by NTMWD and its agents at all reasonable times, and upon completion of construction but before the system is buried, NTMWD shall make a final inspection to insure compliance with this subchapter. The license shall be issued to the applicant by NTMWD only after all requirements have been met.

**§284.229. Procedure for Obtaining Approval for Planned Subdivisions Utilizing Private Sewage Facilities.**

(a) Any developer or other person in interest desiring to create a subdivision in which sewage disposal will be primarily by private sewage facilities must, after filing a plat of such proposed subdivision with the county commissioners court with jurisdiction in the area and having said plat approved and recorded on record, apply to NTMWD for approval of the proposed private sewage facility system for disposal of sewage.

(b) The application shall set forth the name and address of the applicant, the address or location of the subdivision, map or plat showing the boundary lines of the subdivision and the lots within the subdivision, and such soil percolation test results and such other data as may be necessary to determine whether private sewage facilities will cause pollution or injury to public health.

(c) The soil percolation tests and all soil borings to determine the minimum soil depth must be certified either by a registered professional engineer, registered sanitarian, a soil testing laboratory, or some other person who, in the opinion of NTMWD, is qualified to make this determination. NTMWD shall be given an opportunity to witness the tests of the soil as they are conducted.

(d) NTMWD shall be provided written results of such investigations and shall make such additional inspections and tests as NTMWD shall consider necessary.

(e) If NTMWD finds that the subdivision has a minimum lot size of at least one acre and that private sewage facility development would be suitable within the subdivision, it shall so advise the applicant.

(f) If NTMWD finds that one or more portions of a subdivision is suitable for private sewage facility development, and the remainder is not suitable, it may specify those lots which are found suitable and those which are not found suitable. NTMWD's approval of a subdivision, or a part thereof, shall not constitute a license for private sewage facility systems within the subdivision, but shall be a prerequisite to the filing of an application for a license within a subdivision, and each private sewage facility installed within the subdivision must be licensed in the manner provided in subsection (g) of this section.

(g) When NTMWD has approved the use of private sewage facilities for a subdivision, it shall be the duty of the developer of the subdivision, or his agent or assigns, to notify each buyer of a lot in that subdivision that the commission has promulgated private sewage facility rules to protect the waters of the lake and to notify the buyer that any private sewage facility which might be installed on the lot in question must be licensed by NTMWD. In the event this notice is not given, NTMWD may revoke its approval of the use of private sewage facilities for all lots in the subdivision which are still owned or controlled by the developer, and his successors and assigns.

#### **§284.230. Term of Licenses.**

Licenses for private sewage facilities issued under this subchapter shall be effective for a term of five years. Licenses may be renewed for successive terms of five years if NTMWD finds that the lot or tract in question may continue to be served by the private sewage facility without causing pollution or injuring public health. Any license issued under this subchapter shall automatically terminate if there is a subdivision of the property served by the private sewage facility, if the property is used for a purpose other than that described in the license, if the loading of the system is significantly increased beyond that stated in the license, or if an organized disposal system is developed to within 300 feet in horizontal distance to any portion of the private sewage facility.

**§284.231. Operation and Maintenance.**

Private sewage facilities licensed under this subchapter shall be operated and maintained in accordance with criteria developed by the Texas Department of Health. All maintenance and servicing of private sewage facilities shall be performed by servicing organizations approved by NTMWD. All wastes removed from private sewage facilities must be hauled to an organized disposal system for final disposal. Policies for acceptance of all sludge, sewage, or other waste will be established by the owner of the organized disposal system receiving the waste. All private sewage facilities licensed under subchapter shall be subject to inspection by NTMWD and its agents at all reasonable times for the purpose of determining compliance with the terms of the license and this subchapter.

**§284.232. Existing Private Sewage Facilities.**

All licenses issued for private sewage facilities by NTMWD pursuant to Texas Water Quality Board Order No. 1-0917-12 then in effect, now this subchapter, will remain in effect for the term stated therein as if issued under this subchapter.

**§284.233. Exceptions.**

It is the intention of the commission that this subchapter shall be strictly enforced. The commission recognizes that some situations may arise whereby the strict and literal enforcement of the terms of this subchapter might impose undue hardship and would not be necessary to protect and enhance the quality of the waters in the lake. It is the commission's intention that exceptions be granted only in those circumstances where the granting of an exception would not pose potential harm to the quality of the waters in the lake. In the event a person desires to be granted an exception to the terms of this subchapter, an application for each exception shall be filed with the NTMWD. This application shall set out the exact particulars of the exception requested, and confirm all data which would substantiate a finding that an exception is warranted. The NTMWD will review all such requests and issue a statement which either grants or denies the application. This statement shall set out the reason for the decision of the NTMWD.

**§284.234. Terms and Conditions of Appeal.**

(a) The commission intends that any disputes concerning the application of these sections to individual situations be negotiated to conclusion between the licensing authority and the individuals involved, if possible. However, any person aggrieved by an action or decision of the licensing authority may appeal to the Texas Water Commission if the following terms and conditions are met.

(1) All of the appropriate steps required of the aggrieved person by the terms and conditions of this subchapter have been met.

(2) The aggrieved person has made conscientious effort to resolve his problem with the licensing authority.

(b) Appeal is properly made by the aggrieved party by filing a written statement stating with specifics the nature of the grievance. This statement is to be filed with the executive director of the commission, who will then cause notice of the appeal to be issued to the licensing authority. The executive director will then forward the appeal to the Texas Water Commission for its consideration.

**§284.235. Severability Clause.**

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the validity of the remaining provisions of this subchapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

**§284.236. Enforcement.**

(a) Criminal penalty (Texas Water Code, §26.214).

(1) A person who violates any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each day that a violation occurs constitutes a separate offense.

(2) Jurisdiction for prosecution of a suit under this section is in the justice of the peace courts.

(3) Venue for prosecution of a suit under this section is in the justice of peace precinct in which the violation is alleged to have occurred.

(b) Civil penalty. A person who violates any provision of this subchapter is subject to an injunction by court order and to a civil penalty for each act of violation and for each day of violation, to be recovered as provided in the Texas Water Code, Chapter 26.

**§284.237. Fee Schedule.**

NTMWD shall establish a fee schedule for the private sewage facilities regulatory program around Lake Ray Hubbard and maintain a copy of such fee schedule at NTMWD offices for inspection by the public. Such fee schedule shall set reasonable fees for services performed by or at the direction of the NTMWD and may, subject to applicable laws, be amended by NTMWD from time to time.